

Land Tax In Indonesia And Malaysia According To Abu Yusuf Perspective (A Comparative Study)

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Abstrak

Tax is an importance to a country while it is a main source of a country and of course it will give some impact at income of government, tax also have a contribution in development of country. In the history of Islamic economics, Abu Yusuf is known to have a significant contribution to taxation progress during the leadership of the Caliph Harun Ar-Rashid. He wrote a book containing recommendations on the taxation system. The land tax has been implemented in Indonesia since the Dutch colonialism. After Indonesia's independence, the Indonesian government replaced it with the Land Tax and so on became the Land Product Tax (Pajak Hasil Bumi). Whereas in Malaysia, the principle of land law was based on the Torrents system implemented by the British government during the colonial period in 1864. The legislation is still the foundation of land-related legislation to this day. However, the land taxation system in these two countries is seen to still be influenced by western taxation concepts. This study aims to find out how: the concept of land tax according to Abu Yusuf, the form of land tax in Indonesia and Malaysia and the differences and similarities in land tax in Indonesia, Malaysia, and Abu Yusuf. In presenting this discussion, researcher used a descriptive method to outline Abu Yusuf view on land tax in his lifetime, also to outline the concept of land tax in Indonesia dan Malaysia. Researcher also use analysis methods to find out the similarities and differences from Abu Yusuf's land tax, land tax in Indonesia and Malaysia. The results of this study indicate that: in discussing the taxation system, Abu Yusuf suggested four points, namely: 1. using the muqasamah system, 2. the role of government in solving tax collection injustices, 3. the separation between fertile and infertile land, 4. the role of government assist farmers in fertilizing the land. After the analysis, it can be seen two similar points between land taxation in Indonesia and Malaysia with land taxation according to Abu Yusuf: the first is the role of the government in helping farmers

and the second is in establishing a transparent tax collection system. The two different points are first is determination of the land tax rate and the second is separating the fertile land and the infertile land. At the end of the research, the researcher can conclude that land taxation in Indonesia is closer to what Abu Yusuf suggested than taxation in Malaysia.

Keywords: Land Tax, Abu Yusuf, Indonesia and Malaysia

Introduction

Tax is an importance to a country while it is a main source of a country and of course it will give some impact at income of government, tax also have a contribution in development of country. As a Muslim society, complying with the duty of paying taxes that already determined by the government, are same as well as complying with the obligation to pay *Zakat* that have been determined by *Islam*.¹

The tax regulates human relations with other human beings (*mu'amalah*) because of that it is part of the shariah. Without guidance of Sharia in taxation, the tax can be a tool of oppression by the authorities to the peoples. Without shariah restrictions, the government sets and collects taxes at will, and uses it according to what it wants (taxes are considered as tribute-the full property of the king).²

In the history of Islamic economics, Abu Yusuf is known to have a significant contribution to economic progress especially in taxation system during the leadership of the Caliph Harun Ar-Rashid.³ He has written a really great book that suggested the government how to improve the taxation system. In the perspective of Abu Yusuf, the main task of the authorities is to realize and guarantee the welfare of their people. He always emphasized the importance of the government to properly regulates land taxes so that no people are harmed. He considers that the elimination of oppression in taxation and guarantee of people's welfare is the main task of the authorities.⁴

In implementing the land tax system, Indonesia still applied the system adopted by the colonizers. From the history, in the colonial times, it was collected various taxes from lands owner or cultivated

¹Muhammad Turmudi, *Pajak dalam Perspektif Hukum Islam*, (Vol. 8, No. 1, Januari 2015), p. 129.

²Gusfahmi, *Pajak Menurut Syariah*, (Jakarta: Raja Grafindo Persada, 2007), p. 17.

³Karim, Adiwarman Azwar, *Sejarah Pemikiran Ekonomi Islam*, (Jakarta: Raja Grafindo Persada, 2008), p. 53.

⁴أبو يوسف يعقوب بن ابراهيم، كتاب الخراج، (بيروت: دار المعرفة، ١٩٧٩ م)، ص. ١٣٢.

by the people of Indonesia, such as *Contingenten* and *Verplichte Leverantien* better known as forced crops. Later by Governor General Raffles, the land tax was called *Landrent* which meant renting the land. At the time, Indonesian people declared their independence from England ruler, *Landrent's* is still being collected by the Government of the Republic of Indonesia under the name of Earth tax (*Pajak Bumi*). Then the name was change to Earth Revenue Tax (*Pajak Hasil Bumi*).⁵

As in Malaysia, the principles of land law practiced in Malaysia are based on the principles of Torrens Land Law. Land administration based on the principles of Torrens has been introduced by the British during their occupation of Malaya in 1864.⁶ According to Torrens's principle, every land-related transaction must use the relevant forms that have been prescribed and registered to guarantee the validity of each land deal. Registration made in accordance with the official procedure will give the owner undeniable right. This means that according to the Torrens system, the right of a registered owner is absolute and cannot be questioned by anyone. Ownership right under Torrens are guaranteed by state authorities.⁷

It can be seen that the tax law in Indonesia and Malaysia still use the land tax system adopted by the colonizers while the system is not Islamic. So why these two Muslim countries are still using the taxation system which is affected by the west while Abu Yusuf as Muslim scholars itself has discussed taxation system. So, maybe the system of land taxation brought by Abu Yusuf can be offered to both countries until the taxation in it are more Islamic. Furthermore, there is only minor research that discuss about Indonesia and Malaysia land tax with Abu Yusuf perspective by using comparative method. As a Malaysian student that studying in Indonesia, the researcher sees that this title is so interesting to discuss more deeply.

There are several previous studies that have hold research on taxes which researcher has listed: Research conducted by Muhammad Fauzan with the title: "*Konsep Perpajakan Menurut Abu Yusuf*."⁸ This study aims to find out what taxation actually is in a country, to

⁵Purwaningdyah Murti Wahyuni, et.al, *Pajak Bumi dan Bangunan*, (Tangerang Selatan: Universitas Terbuka, 2019), p 1.1.

⁶Rabiah Muhammad Serji, *Sistem Torren dalam Undang-Undang di Malaysia: Sistem Yang Tidak Eksklusif*, (Junal ICONLEE, Desember 2017), p. 256.

⁷*Ibid*, p. 257.

⁸Muhammad Fauzan, *Konsep Perpajakan Menurut Abu Yusuf*, Skripsi, Fakultas Syariah dan Hukum, Institut Agama Islam Negeri, Sumatera Utara, 2014.

understand the concept of taxation in the time of Abu Yusuf and to understand how Islam views the concept of taxation. Second, Depi Rianita Sari with the title: "*Pemikiran Yusuf Qardhawi Tentang Pajak (Dharibah)*".⁹ This study aims to find out a concept of tax from Yusuf Qardhawi. A research that be conducted by Mia Hasanah under the title "*Tinjauan Ekonomi Islam Terhadap Pajak Bumi Dan Bangunan di Indonesia*".¹⁰ The study aims to find out about the implementation of the Building Tax in Indonesia and the economic review of it. Each study had a specific difference from study conducted by author. M. Fauzan discuss taxes in general according to Abu Yusuf while researcher discuss only on the small scope that is the Al-Kharaj and law of land and building in Indonesia and Malaysia. Depi Rianita Sari focus on the discussion of taxes from the concept of Yusuf Qardhawi, while research discusses taxes from the concept of Abu Yusuf. Mia Hasanah was comparing it with the Islamic economic generally. But in this research, researcher discussing the land and building tax and comparing it to the Abu Yusuf perspective.

Based on the background above, the researcher is interested in reviewing and investigating more deeply about land tax applied in Indonesia and Malaysia and how Abu Yusuf's perspective on taxation of land can be offered to Indonesia and Malaysia on land taxation.

Tax in General

According to Aristanti Widyaningsih S.Pd. M.Sc, tax is a fee to the state treasury based in the law so that it can be imposed without receiving a direct reward. Taxes are levied according to norms to cover the cost of producing collective goods and services to achieve general welfare.¹¹

While according to Prof. Dr. P.J.A. Adriani, tax is a contribution to a country that is owed by the obligation to pay it according to the law without getting a direct return and the purpose is to finance public expenditures related to the state's duty to administer the

⁹Depi Rianita Sari, *Pemikiran Yusuf Qardhawi Tentang Pajak (Dharibah)*, Skripsi, Fakultas Syariah dan Ilmu Hukum, Universitas Islam Negeri Sultas Syarif Kasim, 2010.

¹⁰Mia Hasanah, *Tinjauan Ekonomi Islam Terhadap Pajak Bumi dan Bangunan di Indonesia*, Skripsi, Fakultas Syariah dan Ilmu Hukum, Universitas Islam Negeri Sultan Syarif Hidayatullah, 2010.

¹¹Aristansi Widyaningsih, *Hukum Pajak Dan Perpajakan*, (Bandung: Alfabeta, 2013), p. 2.

government.¹²

The definition and understanding of tax as stated by Prof. Dr. Rochmat Soemitro, S.H, is a people's contribution to the state based on an act that can be forced without getting a benefit that can be directly shown and be used to pay public expenses.¹³

From all the definitions above, we can calculate that tax has the following elements: a) Contribution from the people to the country. Only the government has the right to collect taxes and taxes are only in the form of money instead of goods. b) As taxes are based on and regulated by law, taxation can be forced by state. c) The absence of benefits to taxpayers that can be appointed directly. d) Tax, in general, is used to finance state households or expenditure for the welfare of the general public.

The tax has a very important role in a country, especially as a source of income for development and state financing. According to Aristanti Widyaningsih P.Pd., M.Sc. the tax functions can be lined as follows:¹⁴ a) Reception Function (budgeter), Tax function as a source of funds intended for financing government expenditures. In the state budget (APBN), taxes are a source of domestic revenue. b) Regulation Function, Tax function as a tool to regulate or implement policies in the social and economic fields. For example, PPnBM for luxury goods, is applied by the government as an effort to regulate the level of consumption of luxury goods that can be controlled. c) Stability Function, this function is related to policies to maintain price stability (through funds obtained from taxes) so that the inflation rate can be controlled. d) Redistribution Function, Retribution functions more emphasis at the element of equity and justice in society. This function is seen by the layer of tariffs in taxation. For example, in income tax, the greater the amount of income the greater the amount of tax owed becomes. e) Function of Democracy. Tax in the function of democracy is a form of mutual cooperation system. This function is related to the level of government service to the taxpayer community.¹⁵

Biography of Abu Yusuf

Ya'kub bin Ibrahim bin Habib bin Khunais bin Saad Al-Anshari Al-Kufi Al-Jalbi Al-Baghdadi, or famously known as Abu Yusuf

¹²*Ibid*, p. 3.

¹³Mardiasmo, *Perpajakan*, (Yogyakarta: ANDI, 2013), p. 1

¹⁴*Ibid*, p. 3.

¹⁵Aristansi Widyaningsih, *Hukum Pajak Dan Perpajakan*, , p. 3.

was born in Kufah in 113 H (731 M) and died in 182 H (798 M) in a city called Baghdad. He had a blood relationship with one of the companions of the Prophet Muhammad SAW, Sa'ad Al-Anshari through his mother. From his childhood, he had a very strong interest in science even though his family was not from among those who were wealthy.¹⁶

In the process of learning and his love of science, Abu Yusuf was very diligent and persevering so that he could show high ability as *Ahlul-Hadith* like Abu Muhammad Atho bin Said Al-Kufi, Sulaiman bin Mahran Al-A'masy, Hisham bin Urwah, Muhammad bin Abdurrahman bin Abi Laila, Muhammad bin Ishaq bin Yassar bin Jabar dan Al-Hajjaj bin Arthah.¹⁷ His enthusiasm to learn brought him in the circle of Abu Hanifah, the great scholar, famous jurist and founder of Hanafi school of jurisprudence. Abu Hanifah recognized his worth and helped him in so many ways.¹⁸ For seventeen years, Abu Yusuf did not stop studying from Abu Hanifah until he was recognized as one of Abu Hanifah's prominent students. Abu Yusuf and Muhammad bin Hasan As-Syaibani become pioneering figures in spreading and developing Hanafi school of jurisprudence after the death of Abu Hanifah.¹⁹

He increases the breadth and depth of his knowledge all because of getting education and training at the hand of scholars of high capability. He also archived high capability to observation and analysis and sharpness in word and thought until his stand on a distinguished spot within his contemporary scholars.²⁰ With the rapid development of knowledge make him a good role model among the scholars authorities and the community, until there so many people want to become his students. Among the great figures who had become his students were Muhammad bin Hasan As-Syaibani, Ahmad bin Hanbal, Yazid bin Harun Al-Wasithi and Yahya bin Adam Al-Qarasy.²¹

¹⁶Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, (Jakarta: Raja Grafindo Persada, 2016), p. 231.

¹⁷Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, , p. 232.

¹⁸Sabahuddin Azmi, *Abu Yusuf's Contribution to The Theory of Public Finance*, (India: Aligarh Muslim University, 1995), p. 20.

¹⁹Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, , p. 232.

²⁰Sabahuddin Azmi, *Abu Yusuf's Contribution to The Theory of Public Finance*, , p. 20.

²¹Hendri Hermawan Adinugraha, *The Rationalization of Abu Yusuf Economic Thought*, (Journal of Islamic Banking and Finance, Vol. 35 No. 4, December 2018), p. 41.

He attracted caliphs with his high level of knowledge to appointed him to become *Qadhi* (judge). During the three caliphates; namely Al-Mahdi Al-Mahdi (785 A.D), Al-Hadi (786 A.D) dan Ar-Rasyid (809 A.D) he was appointed *Qadhi* (judge) in the city of Baghdad. Abu Yusuf was well-liked by the caliphs of his day. Caliph Harun Ar-Rasyid gave him a special position and he was the first person in history of Islam to get the title *Qadhi al-Qudhat* (Chief Justice).²² His advice has been sought by Caliph Ar-Rasyid for solving administrative problems, in financial policies and other problems. With active participation in public matters, he spoke with clear thought and fullness of experience. Abu Yusuf keep the title of *Qadhi al-Qudhat* until his death in 798 A.D.²³

Even though Abu Yusuf was busy with bureaucratic matters and teaching, he still took the time to write. Some of his writing which respond to some of the phenomenon and problems of society regarding to the challenges of social and religious life; *Al-Jawami'*, *Ar-Radd 'ala Siyar Al-Auza'i*, *Al-Athar*, *Ikhtilaf Abi Hanifah wa Abi Laila*, *Adab Al-Qadhi*, and *Al-Kharaj*.²⁴

Abu Yusuf Perspective on Land Tax

Abu Yusuf's methods and thoughts about economics were at least motivated by number of factors together with external and internal factors. Internal factor that emerged from his background, for example, studied with several figures who were incorporated in it as *fiqh* scholars made his thoughts colored with various opinions from those figures. Other than that, the aspect of rationality that exists in Abu Yusuf also makes the thinker difference from other scholars in his day. It can be seen from some of the methods that prioritize *ra'yun* in establishing the Islamic law.²⁵

As a *fuqaha* scholar background with a genre of *ar-ra'yu*, Abu Yusuf tends to reflect the various economic considerations by using *qiyas* as analysis tools preceded by in-depth studies of the Quran, Hadith of the Prophet, *athar sahabi* and the practice of virtuous rulers. The foundation of his thinking is to create *maslahah al-ammah* (the

²²Purbayu Budi Santosa, *Maslahah Dalam Pajak Tanah Perspektif Abu Yusuf*, (Journal Dinamika Ekonomi & Bisnis, Vol. 12 No. 2, October 2015), p. 115.

²³Sabahuddin Azmi, *Abu Yusuf's Contribution to The Theory of Public Finance*, , p. 21.

²⁴Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, , p. 232.

²⁵M. Nazori Majid, *Pemikiran Ekonomi Islam Abu Yusuf*, , p. 28.

public good).²⁶

Abu Yusuf in reforming the economic system, he appeared to put right and improve the economic mechanism by finding a way out of the difficulties experience by the citizens who are the drivers of the economy. He explains how the economic system has long burdened the weak citizens, uneven economy and how it opened up the divide between rich and poor. This in his thought should be shifted towards a fair and equitable economy.²⁷

Abu Yusuf says that after the land of *Sawad* was conquered, the Caliph Umar ibn Khatab appointed two of the Prophet's companions Uthman dan Huzaifah to take a look at the possibility and scope of the taxable land. What is feared by the Caliph Umar is that there is excessive on taxation. Both of them reported that taxation was based on the ability of the land.²⁸

Abu Yusuf more agree if the state takes the tax from agricultural output rather than withdrawing rent from agricultural land. According to him, this method will give justice to individuals, communities and also to the state and make it easy to expand cultivable land.²⁹ He intend to replace the *wazifah* collection system that was practiced in his time and in previous times (from time of Caliph Umar al-Khatab) with the *muqasamah* collection system before starting a new economy.³⁰

When discussing the tax collection system, Abu Yusuf used the terms *wazifah* and *muqasamah*. *Wazifah* give the impression of a fee system that is determined based on a fixed value, without looking at the differences size of the taxpayer's ability level or simply say, tax with the determinate same amount to the taxpayers. While *muqasamah* is a tax collection system that applies based on changeable values or changes following by consideration of the level of ability and income or proportional tax.³¹

Abu Yusuf has succeeded in conducting research in the field to find tax problems and then he conveyed to the public to see their responses to the existing tax and legal system (from the time of Caliph

²⁶Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, , p. 235.

²⁷Hendri Hermawan Adinugraha, *The Rationalization of Abu Yusuf Economic Thought*, , p. 45.

²⁸أبو يوسف يعقوب بن ابراهيم، كتاب الخراج، (بيروت: دار المعرفة، ١٩٧٩ م)، ص. ٣٧.

²⁹Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, , p. 242.

³⁰M. Nazori Majid, *Pemikiran Ekonomi Islam Abu Yusuf*, , p. 79.

³¹*Ibid*, p. 78.

Umar al-Khatib). The people directly said that they objected to the taxation on infertile and non-productive land and suggested that fertile land and infertile land be separated tax.³²

So, Abu Yusuf stipulates that land managed for daily purposes and does not give benefit to the land owner should not be taxed because of their improper circumstances and also has no profit that can be donated to government.³³

Abu Yusuf considered that the existing financial conditions demanded a change in the *wazifah* system which was no longer efficient and relevant at that time. He said that during the Umar era, most of the land could be planted properly so that the small portion of land that could not be planted was clarified into one category with the fertile area in case of taxation. Therefore, the community was not burdened even though the *wazifah* system is used.³⁴

Discussions conducted by Abu Yusuf with the community also shown that there was land that had not been planted for hundreds of years and farmers were unable to revive it with the burden that was still imposed on the infertile land.

Far from that, Abu Yusuf emphasized that the determining tax with method of proportional (*muqasamah*) can increase the income of state from land tax and at the same time encourage farmer to increase their production. He says:³⁵

In the author's perspective, the best taxation system to generate more income for state finance and the most appropriate way to avoid the oppression to taxpayer is agricultural tax with proportional system.³⁶

In terms of practical, land tax according to Abu Yusuf is only enforced once a year. Even land management technology is able to make farmer harvest more than once in a year. According to him, this type of tax levy is constant without looking at the object. But this land tax does not enforce if the planted land does not get satisfactory result, such as floods, landslide, fires and some other that similar.³⁷

In the case of land tax administrations, Abu Yusuf reject

³²أبو يوسف يعقوب بن ابراهيم، كتاب الخراج،، ص. ٤٨.

³³أبو يوسف يعقوب بن ابراهيم، كتاب الخراج،، ص. ٤٨.

³⁴Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*,، p. 242.

³⁵*Ibid*, p. 247.

³⁶أبو يوسف يعقوب بن ابراهيم، كتاب الخراج،، ص. ٥٠.

³⁷M. Nazori Majid, *Pemikiran Ekonomi Islam Abu Yusuf*,، p. 82.

taqbil practices, where a person from the local population usually volunteering himself to the authorities to be responsible for collecting the land tax in his area. He himself found the revenue target, while the local government simply accepts the result as pure revenue. Abu Yusuf did not accept the *taqbil* system because according to him, this kind of practice would be the cause of the destruction of the state.³⁸

The *mutaqabbil* often act cruelly and ignore the suffering of the people. They treat people disrespectfully and only prioritize their own interest. As a result, farmers suffer and are reluctant to manage agricultural land and leave their livelihoods and of course the revenue from land tax will becomes minimal. He offered the government to organize the process of gathering the land tax from farmers. The government must have a special department to handle land tax issues with trained and professional officers.³⁹

Although Abu Yusuf concerning the need for efficient and honest administration, Abu Yusuf continued to suggest that an investigation into the behavior of tax collectors (the tax collection department) was clearly seen in his writing: "I suggest that you has to delegate a commission consisting of trustworthy and honest people to investigate the behavior of tax collectors and the ways they collect taxes and also has to punish those who are guilty".⁴⁰

Besides, to protect the profits of taxpayers and the guarantee of state income, Abu Yusuf asked the government to conduct a proper survey to the land and the value of taxable goods. He argues, tax must be determined clearly and not just based on presumption.⁴¹ "Nothing should be levied on presumption, there must be a fair assessment of the goods that underlie a decision, as there should not be excessive taxation or it will damage the country's treasury."⁴²

To achieve the justice principle in tax administration, Abu Yusuf suggested that the authorities has to separate between unfertile land and fertile land. Other than that, to ensure efficiency in tax collection, he suggested that taxes should be collected without delay because they would cause disadvantage to agricultural product which would

³⁸ أبو يوسف يعقوب بن ابراهيم، كتاب الخراج،، ص. ١٠٥.
³⁹ محمد ضياء الدين الرئيس، الخراج والنظام المالية للدولة الإسلامية، (مصر: دار المعارف، ١٩٦٩)،
 ص. ٤٥٤.

⁴⁰ أبو يوسف يعقوب بن ابراهيم، كتاب الخراج،، ص. ١٠٨.
⁴¹ Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, , p. 248.

⁴² أبو يوسف يعقوب بن ابراهيم، كتاب الخراج،، ص. ٨٦.

give a negative effect on country, taxpayer and will decelerate the development of agriculture.⁴³

Here, Abu Yusuf pays attention to efficiency in tax administration to guarantee taxable goods. The fact shown that deficiencies and mismanagement carried out by some tax collectors will damage the harvest and reduce the revenue of state from tax. When there is instability in foods price, Abu Yusuf suggest for foodstuffs should be sold and the prices be divided proportionally, so it will not negatively impact to the taxpayers and state treasury.⁴⁴

Land Tax in Indonesia

Definition of Land and Building Tax (*Pajak Bumi dan Bangunan/ PBB*) is a state tax imposed on land and or buildings based on Law No. 12 of 1985 concerning of Land and Building Tax as amended by Law Number 12 of 1994. PBB is a tax that bases on object, that means the amount of tax is determined by the object of PBB which is land and or buildings. The condition of the subject (who pays) does not determine the amount of tax.⁴⁵

The object of land and building tax is land and or building. Land is the surface of the earth and the body of the earth beneath it. So, the object of the PBB are the land and body of the earth. According to the Basic Agrarian Law (*Undang-Undang Pokok Agraria/UUPA*) of 1960 said that all the earth, water and space including the natural wealth contained in the territory of the Republic of Indonesia as a gift from God is the property of the Indonesian people and is a national treasure.⁴⁶

Building as an object of PBB tax is a technical construction that is planted or permanently attached to land and or water, which is designated as a residence or place of business or where it can be cultivated.⁴⁷ Article 1 Paragraph 2 if the PBB tax further states that what is included in the definition of a building is: 1) An environmental road located in a building complex (hotel, factory, etc.) which is an integral part of the building complex, 2) a swimming pool, 3) luxury fences, 4) sports venues, 5) dock boats reserves, 6) luxury parks, 7)

⁴³Adiwarman Azwar Karim, *Sejarah Pemikiran Ekonomi Islam*, , p. 249.

⁴⁴*Ibid*, p. 249.

⁴⁵Aristanti Widyaningsih, *Hukum Pajak dan Perpajakan*, (Bandung: Alfabeta, 2013), p. 190.

⁴⁶Azhari Aziz Samudra, *Perpajakan di Indonesia*, , p. 62.

⁴⁷Mardiasmo, *Perpajakan*, , p. 331.

reservoirs, oil and water refineries, 8) other beneficial facilities, 9) toll roads.⁴⁸

Besides the tax object, there are also objects that are excluded from the PBB. Article 3 of PBB states that not to be included to tax are: 1) object (land, building and water) which are only used to serve the public interest in the field of worship, social, education and national culture and are not intended to gain profit, 2) object used for graves, ancient relics etc., 3) object that constitute protected forest, state-owned tourism forest, national park etc., 4) objects used by diplomatic representatives on the condition that the states will give reciprocal treatment, 5) object which used by representatives of international organizations determined by Minister of Finance.⁴⁹

There are at least three bases for imposition of land and building tax (PBB). First, *Nilai Jual Objek Pajak* (NJOP) is the average price obtained from trade transaction or the latest value accordance to government regulations, used to calculate the PBB Tax. If the trade transaction does not exist, NJOP will be determined through price comparison with other similar object, or new acquisition value or replaced NJOP.⁵⁰

NJOP for land is determined by the conversion value of each zone of land grade into clarification, classification and stipulation on the sale grade of the earth's surface. A land grade zone is a geographic zone that consists of a group of tax object that have an average indication grade. The average indication grade is the average fair market value that represents the value of land in a certain land value zone.⁵¹

Second, *Nilai Jual Kena Pajak* (NJKP) (assessment value) referred to sale value used as the base for calculating tax, which is a certain percentage of the actual sale value and stipulated by the government

⁴⁸Undang-undang Republik Indonesia Nomor 12 Tahun 1985 Tentang Pajak Bumi dan Bangunan Tambahan Lembaran Negara Republik Indonesia Tahun 1985 Nomor 3312.

⁴⁹Undang-undang Republik Indonesia Nomor 12 Tahun 1985 Tentang Pajak Bumi dan Bangunan Tambahan Lembaran Negara Republik Indonesia Tahun 1985 Nomor 3312.

⁵⁰Mardiasmo, *Perpajakan*, , p. 333.

⁵¹Purwaningdyah Murti Wahyuni, et.al., *Pajak Bumi dan Bangunan*, , p. 1.16.

regulation with observe national economic condition.⁵²

The last one is, *Nilai Jual Objek Pajak Tidak Kena Pajak* (NJOPTKP) is NJOP limit for land and or building that are not taxable. NJOPTKP is a reduction of the amount of NJOP before being multiplied by the PBB tax tariff. Starting 1 January 2010, the government established new rules regarding *Nilai Jual Kena Pajak* (NJKP) and *Nilai Jual Objek Pajak Tidak Kena Pajak* (NJOPTKP) which regulated in Law Number 28 of 2009 concerning regional taxes and regional retribution (PDRD) which had been completed amended on 15 September 2009. In 2011 along with growing economic, monetary and general tax object price, the Minister of Finance made an adjustment to the amount of PBB's NJOPTKP up to Rp24.000.000.⁵³

Land Tax in Malaysia

Definition of Land Tax Malaysia, Wald defines land taxes as imposts levied on land on the basis of one or more of a variety of characteristics such as value, income, area, nature, location, etc., all of which can be, in turn, specified in a number of possible ways. Taxation is the form of socialization used in market economies. Choosing what to tax is choosing what to socialize. Rather than socialize labor or repel capital it is possible to tax land.⁵⁴

Land Tax under section of the country's land of 1965 is defined as: 1) Any annual sum payable to state authority as rent tax. 2) Any other annual payment in debt to the state authority which, under any written law, shall be collected as if it were rent or land tax. 3) Any payments in the debt to the state authorities in arrears of rent taxes.⁵⁵

The administration of land is a state matter and the federal government or local authority has no direct control over matters pertaining to land tax. This indicates that the state government has sole power in terms of managing their lands. The establishment of the National Land Council however, is one of the efforts by the federal government to co-ordinate and monitor all related matters concerning

⁵²Ibid, p. 1.21.

⁵³Aristanti Widyaningsih, *Hukum Pajak dan Perpajakan*, , p. 194.

⁵⁴Nor Aziah Abdul Manaf, *State Government Land Tax Performance in Malaysia*, (Kedah: Universiti Utara Malaysia, 2006), p. 6.

⁵⁵Undang-Undang Malaysia, Kanun Tanah Negara 1965 Akta 56/1965.

administration of land between state governments in Peninsular Malaysia.⁵⁶ The National Land Code (NLC) 1965 empowers the Federation and the rights of state authority on land, classification and use of land, disposal of land and all aspects of alienated land. One of the main aims of the introduction of the NLC in 1966 was to ensure uniformity of laws and policies in respect of land matters in all states.⁵⁷

In Malaysia, tax on land is solely based on the location, area, and the use of the land, excluding the value of the land, development or improvement of the land. The government of each individual state levies a land tax upon landowners known as “quit rent”. The applicable rate of quit rent varies with the category of land use and size. The taxes are levied on the owner and not on the user of the land. The rates of land tax imposed in one state may differ from the rates imposed in other states because each state government has the authority to determine land tax rates.⁵⁸

After land taxes are computed by the land offices of state governments, bills are sent out to landowners at the end of December for the following financial year. Land taxpayers have until June 30th to pay the land taxes without penalty.⁵⁹ If the landowner is late for payment, they are charged a penalty of 10%-20% of the land tax or a certain minimum amount according to the state government involved.⁶⁰

All land alienated are taxable including land for residential, agricultural, industrial and others. The land tax payment rate is based on *Kanun Tanah Negara*. There is a significant difference between land tax payment rate for town land and village land.⁶¹

⁵⁶Natrah Saad, et.al., *Principles of Taxation*, (Kedah: UUM Press, 2019), p. 5.

⁵⁷See the National Land Code (Act 56 of 1965) and Regulations. The Federal Government National Land Code 1965 is currently enforced in all states in Malaysia (excluding Sabah and Sarawak).

⁵⁸Nor Aziah Abdul Manaf, *State Government Land Tax Performance*, p. 14.

⁵⁹Several states like Johor and Pulau Pinang, however, give only until May 31 for the land owner to pay the bill without penalty.

⁶⁰Natrah Saad, et.al., *Principles of Taxation*,, p. 145.

⁶¹Malaysia Law, National Land Code (Terengganu Land Rules,

Each of the classes is then divided into several categories. The categories are set according to the purposes of the land, such as industrial purposes, building purposes, agricultural purposes. Each category has several types of land and each type of land has a different rate of tax depending upon its classification.⁶²

All citizens who alienated land legally must pay the taxes imposed by the government. It applies regardless of religion, lineage or race. The tax rate is also equal and there is no difference between rich and poor. Payment must be made from the start of the year until May 31 of each year. Anyone who has alienated land legally but had not paid taxes after May 31, they will be fined.⁶³

In Malaysia, tax on land is solely based on the location and the purpose of the land, excluding the value of the land and the development of land improvement. The government of each individual state in Malaysia levies a land tax upon landowners known as Quit Rent or *Cukai Tanah* (Land Tax). The rate of Quit Rent applicable varies with the category of land use, size and area that the land is located.⁶⁴

The taxes are levied upon the owner of the land and not to the user of the land. Furthermore, the land tax fall totally on the land owner and it cannot be transferred by the land owner to the tenant or anyone else. The rates of land tax imposed in one state might differ from other because each state authority is given to determine the rate.⁶⁵

Discussions on land tax rates have been stated in the *Kanun Tanah Negara* Article 96. According to Mr. Adnan, the land tax rates are fixed and stated in each owned land as soon as the land is approved

1966).

⁶²Nor Aziah Abdul Manaf, *State Government Land Tax Performance*, , p. 17.

⁶³Normadiah Daud, *Perbandingan Antara Sistem Cukai Kharaj Dengan Cukai Tanah Konvensional*, (Jurnal Islam dan Masyarakat Kontemporari Vol. 2, 2009), p. 139.

⁶⁴Nor Aziah Abdul Manaf, *State Government Land Tax Performance* , p. 18.

⁶⁵Nor Aziah Abdul Manaf, *State Government Land Tax Performance* , p. 16.

by the Land and Minerals Office.⁶⁶

Similarities and Differences of Land Tax in Indonesia and Malaysia From the Perspective of Abu Yusuf

As a result of researching the concept of Abu Yusuf kharaj tax, Indonesian land tax and Malaysian land tax, the researcher find that there are some differences and similarities in the points that the researcher has explained in previous debates. These differences and similarities can be seen in the following table 4.1:

Table 1. Differences and similarities between *Kharaj* tax, Indonesia land tax and Malaysia land tax

No.	The Characteristic	Abu Yusuf <i>Kharaj</i> Tax	Land Tax in Indonesia	Land Tax in Malaysia
1	Tax Collection Mechanism	<i>Muqasamah</i>	Assessment value mechanism (NJKP)	Static tax land determination
2	The Role of Government in Resolving Tax collector' Inequity	The government must emphasize the justice of the tax collector	Modern system: Government provide center for taxpayer to pay their tax	Government provide payment counter or paying by online payment
3	Separated Between the Cultivated Lands and Barren Lands	Yes	Tax will be imposed to all land	All land will be charged with tax
4	Government's Role in Helping Land Revitalize	The government should assist the farmers in cultivating the land	Provides facilities for farmers to rent such as plowing tools and more. Also provide fertilizer, seedlings etc.	Provided free fertilizers, seedling and other

⁶⁶Adnan Bin Abdullah, Chief Assistant Land Administrator, Kuala Terengganu District Office and Land, interviewed on January 23, 2020, 2:19 pm.

In the determination of land taxes, Malaysia and Indonesia use the same method of the taxation imposed based on the ruling issued by the government and the rate of land tax in both countries can change according to the economic situation of the country⁶⁷. But in Malaysia code, evaluation and emendation can be done within ten years.⁶⁸ The researcher can say that it is contrary to what Abu Yusuf has suggested, *muqasamah* is a concept of taxation of land based on the rate of production resulting from what has been cultivated in the land.

This difference is due to Abu Yusuf discussing taxes aimed only at agricultural land while the debates contained in Indonesia and Malaysia land tax are land owned by the people whether the land is used for agriculture, housing or for factory development, etc. According to the authors, even if the land is used for agriculture or factory development or other, the application of the concept of *muqasamah* is possible as long as the land can generate income for the landowners. and for residential land, it may not be taxable since the land does not produce any income. It is in line with what Abu Yusuf suggested in his book *Al-Kharaj*.

Based on Table 4.1, it is possible to distinguish between the taxation concept of Abu Yusuf and the tax collection concept in Indonesia and Malaysia. This distinction is significant as Indonesia and Malaysia have adopted the modern system of tax revenue collection in their respective countries by providing payment counters to those who wish to pay their taxes.⁶⁹ Whereas in the days of Abu Yusuf, the government still used intermediaries to collect *kharaj* tax revenue by sending or appointing representatives in certain areas to collect land taxes so that Abu Yusuf's emphasis on taxpayer credibility was timely.

The researcher also thinks that the adoption of modern systems is more effective, because the management of the agency is public sectoral. However, credibility, friendliness, and trust should still be considered by Indonesia and Malaysia to officers at the agency.

⁶⁷Purwaningdyah Murti Wahyuni, et.al, *Pajak Bumi dan Bangunan*, , p. 1.21.

⁶⁸Undang-Undang Malaysia, Kanun Tanah Negara 1965 Akta 56/1965, article 101 No. 5.

⁶⁹Undang-undang Republik Indonesia Nomor 12 Tahun 1985 Tentang Pajak Bumi dan Bangunan Tambahan Lembaran Negara Republik Indonesia Tahun 1985 Nomor 3312, pasal 11. And Undang-Undang Malaysia, Kanun Tanah Negara 1965 Akta 56/1965, article 95.

For the exclusion of taxation objects, Indonesia and Malaysia do not separate the fertile land and the infertile land because when it comes to land taxation, these two countries not only look at agricultural land but look at all the land within their respective territories. Fully-taxable land will be taxed on either agricultural or non-agricultural land, income-generating land or non-income land.

As for the *Kharaj* tax, according to Abu Yusuf, the separation between fertile land and non-fertile land is very cursory as it will help the farmers to expand their agricultural business while increasing the country's finances. This separation is Abu Yusuf's opinion based on his observation of the situation at his time (more infertile land) different from the time of the reign of Umar Al-Khatib (more fertile land).

However, the geography factor of Indonesia and Malaysia with the Bagdad also contributed to the determination of the tax collection mechanism. Indonesia and Malaysia have lands that are mostly fertile and suitable for cultivation with a variety of crops compared to Baghdad in the time of Abu Yusuf where most of the lands were desert or which can be said to be a large number of dead lands until the separation between fertile land and infertile land were not as important in Abu Yusuf's time.

The governments of Indonesia and Malaysia have their own ways to help farmers increase their income. Although Indonesia and Malaysia do not use the concept of *muqasamah* as suggested by Abu Yusuf, but both countries still see that helping the farmers is a priority because the farmers are the people who have the right to help. Abu Yusuf argues that by using the concept of *muqasamah*, helping farmers to increase their agricultural output is indirectly helping the government in increasing the country's income from the tax

Closing

As a result of a thorough analysis, the researcher formulated a conclusion based on two main aspects, referring to the research objectives discussed earlier in the study. First: The concept of Land tax in the view of Abu Yusuf and Second: The differences and similarities in the Abu Yusuf *al-kharaj* tax, the land tax in Indonesia and the land tax in Malaysia.

In discussing land tax, Abu Yusuf has his own view as a result of his observations on the application of land tax in previous era and

the circumstances of his time. So that it can bring about a concept that has never been before with the help of its intelligence and sharpness of observation. The main point is a *muqasamah* that sets tax rates based on agricultural income. From this point comes the priority on the following two points: First: the separation between fertile and infertile land and Second: the importance of the government's role in helping the community to grow/fertilize the land. These two points will contribute to the growth of the people's economy and the government's economy. As for the tax collector, Abu Yusuf saw injustice by the tax collector until he proposed to the government to organize the process of gathering the *kharaj* from farmers, as providing a department to handle *kharaj* issues with trained and professional officers.

The determination of land tax rate in Indonesia is static and not based on land revenue as Abu Yusuf suggests in *muqasamah* system. Indonesia also does not separate the fertile land and the infertile land in determining the object of taxation as Indonesia discussing land taxation in general rather than agricultural land whereas Abu Yusuf focuses on agricultural land. In addition, the geographical conditions of Indonesia were very different from Baghdad at that time making the separation is inessential to this country. Although Indonesia has not adopted the concept of *muqasamah*, Indonesia has always taken initiative to help farmers develop better and more sustainable agriculture and it is was what Abu Yusuf emphasized in his book. In line with Abu Yusuf's recommendations on tax collection, Indonesia has set up a special department that manages taxation in general, making it easy for the country to record and monitor the work of this tax collector.

In Malaysia, the determination of the land tax rate is opposite to Abu Yusuf's suggestion because the Malaysia government is using static land tax rate determination. The reason for not dividing the productive land and the unproductive land in determining the object of taxation because in examining land taxation, Malaysia is not focusing on agricultural land only while Abu Yusuf focuses on agricultural land. And also, the huge difference of geographical conditions between Malaysia and Baghdad making the separation is not an absolute necessity for Malaysia. Agree with what Abu Yusuf emphasized about the role of a country in helping farmers, although the *muqasamah* system is not a concept in determining land tax rates in Malaysia, the agenda to help farmers on developing better and more

sustainable agriculture remain a priority of the country. To make it easier for the government to control the work of this tax collector, a special department has been set up by Malaysia to manages taxation in general. It's precise with Abu Yusuf's recommendations on tax collection.

Based on the comparative analysis in previous chapters, the authors can conclude that land taxation in Indonesia is closer to Abu Yusuf suggestion on land taxation system than land taxation in Malaysia. Because, Indonesia's land tax law distinguishes several types of tax-exempt land, for example: land used to serve the public interest (worship, education and social) are not the object of tax.

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